

72-2-101. Title.

This chapter is known as the "Transportation Finances Act."

Enacted by Chapter 270, 1998 General Session

72-2-102. Transportation Fund.

(1) There is created a fund entitled the "Transportation Fund."

(2) Transportation Fund money shall be used exclusively for highway purposes as provided in this title.

Enacted by Chapter 270, 1998 General Session

72-2-103. Limitations on Transportation Fund appropriations to agencies not a part of the Department of Transportation -- Exceptions.

(1) Except as provided under Subsection (2), the amount appropriated or transferred from the Transportation Fund each year may not exceed a combined total of \$11,600,000 to:

- (a) the Department of Public Safety;
- (b) the State Tax Commission;
- (c) the Division of Finance; and
- (d) any other state agency that is not a part of the Department of Transportation.

(2) The following amounts are exempt from the appropriation and transfer limitations of Subsection (1):

- (a) amounts deposited in the Department of Public Safety Restricted Account created under Section 53-3-106;
- (b) revenue generated by the uninsured motorist identification fee under Section 41-1a-1218;
- (c) revenue generated by the motor carrier fee under Section 41-1a-1219 or Section 72-9-706; and
- (d) revenue generated by the Motorcycle Rider Education Program under Section 53-3-905.

Amended by Chapter 13, 2002 Special Session 5

72-2-104. Budget.

(1) The department shall prepare and submit to the governor, to be included in his budget to be submitted to the Legislature, a budget of the requirements for the operation of the department for the fiscal year following the convening of the Legislature.

(2) This budget shall be so separated, in relation to the various functions of the department, so as to allow the separate determination of funds for deposit into the Transportation Fund and into any other special funds which are required by law to be utilized for specific purposes and which are separately maintained by the department for those purposes.

Renumbered and Amended by Chapter 270, 1998 General Session

72-2-105. Budgetary accounts within Transportation Fund -- Disposition of unexpended balances.

(1) The amount designated by the Legislature, out of which the items budgeted shall be paid, shall be established in appropriation and allotment accounts within the Transportation Fund.

(2) At the close of the biennium all unexpended balances remaining in the accounts so budgeted shall be closed to the fund balance account of the Transportation Fund.

Renumbered and Amended by Chapter 270, 1998 General Session

72-2-106. Appropriation from Transportation Fund.

On and after July 1, 1981, there is appropriated from the Transportation Fund to the use of the department an amount equal to two-elevenths of the taxes collected from the motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated to the B and C road fund and the collector road fund, to be used for highway rehabilitation.

Amended by Chapter 278, 2010 General Session

72-2-107. Appropriation from Transportation Fund -- Deposit in class B and class C roads account.

(1) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus:

(a) those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

- (i) the Department of Public Safety;
- (ii) the State Tax Commission;
- (iii) the Division of Finance;
- (iv) the Utah Travel Council; and
- (v) any other amounts appropriated or transferred for any other state agencies not a part of the department; and

(b) the amount of sales and use tax revenue deposited in the Transportation Fund in accordance with Section 59-12-103.

(2) (a) Except as provided in Subsection (2)(b), all of this money shall be placed in an account to be known as the class B and class C roads account to be used as provided in this title.

(b) The director of finance shall annually transfer \$500,000 of the amount calculated under Subsection (1) to the department as dedicated credits for the State Park Access Highways Improvement Program created in Section 72-3-207.

(3) Each quarter of every year the director of finance shall make the necessary accounting entries to transfer the money appropriated under this section to the class B and class C roads account.

(4) The funds in the class B and class C roads account shall be expended under

the direction of the department as the Legislature shall provide.

Amended by Chapter 391, 2010 General Session

72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.

- (1) For purposes of this section:
 - (a) "Graveled road" means a road:
 - (i) that is:
 - (A) graded; and
 - (B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;
 - (ii) that has an improved surface; and
 - (iii) that has a wearing surface made of:
 - (A) gravel;
 - (B) broken stone;
 - (C) slag;
 - (D) iron ore;
 - (E) shale; or
 - (F) other material that is:
 - (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
 - (II) coarser than sand.
 - (b) "Paved road" includes a graveled road with a chip seal surface.
 - (c) "Road mile" means a one-mile length of road, regardless of:
 - (i) the width of the road; or
 - (ii) the number of lanes into which the road is divided.
 - (d) "Weighted mileage" means the sum of the following:
 - (i) paved road miles multiplied by five;
 - (ii) graveled road miles multiplied by two; and
 - (iii) all other road type road miles multiplied by one.
- (2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class C roads account shall be apportioned among counties and municipalities in the following manner:
 - (a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and
 - (b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.
- (3) For purposes of Subsection (2)(b), "the population of a county" means:
 - (a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including

municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) (a) If an apportionment under Subsection (2) to a county or municipality with a population of less than 14,000 is less than 120% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97, the department shall:

(i) reapportion the funds under Subsection (2) to ensure that the county or municipality receives an amount equal to 120% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97; and

(ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

(5) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4)(a)(i) shall receive the percentage change in the class B and class C roads account compounded annually beginning in fiscal year 2006-07.

(b) The adjustment under Subsection (5)(a) shall be made in the same way as provided in Subsection (4)(a)(ii) and (b).

(6) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Amended by Chapter 109, 2008 General Session

72-2-109. Rules for uniform accounting -- Apportionment and use of class B and class C road funds -- Compliance with federal-aid provisions -- Duties of department.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for uniform accounting of funds to be expended upon class B and C roads as required by the federal government under Title 23, United States Code Annotated, relating to federal aid for highway purposes together

with all amendatory acts.

(2) The department shall cooperate with the county governing bodies and the governing officials of the cities and towns in the apportionment and use of class B and C road funds.

Amended by Chapter 382, 2008 General Session

72-2-110. Funds allocated to class B and class C roads -- Matching federal funds -- R.S. 2477 rights.

A county or municipality may:

(1) use funds which are allocated to class B and class C roads for matching federal funds for the construction of secondary roads now available or which may later become available in accordance with the provisions of law; and

(2) use up to 30% of the class B and class C roads account funds allocated to the county or municipality to pay the costs of asserting, defending, or litigating local government rights under R.S. 2477 on class B, class C, or class D roads.

Amended by Chapter 71, 2009 General Session

72-2-111. Assent to federal acts on federal aid for highway purposes -- Department to represent state -- Pledge of funds -- Rulemaking authority -- Contracts for energy conservation.

(1) (a) The Legislature assents to all the provisions of Title 23, Highways, U.S.C., relating to federal aid for highway purposes, and all amendatory acts.

(b) The department may:

(i) enter into a contract or agreement with the United States government relating to the survey, construction, and maintenance of highways under a federal act;

(ii) submit a scheme or program of construction and maintenance required by a federal agency; and

(iii) do any other thing necessary to fully carry out the cooperation contemplated and provided for by a federal act.

(c) The good faith of the state is pledged to make available sufficient funds to match the sums apportioned to the state by the United States government:

(i) for the construction of federal-aid highways; and

(ii) to provide adequate maintenance for federal-aid highways.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to encourage car pools and van pools in order to save energy.

(3) The department may contract with individuals, associations, or corporations to accomplish energy conservation and encouragement of car and van pooling.

Amended by Chapter 382, 2008 General Session

72-2-112. Transportation department authorized to participate in federal program -- Prohibition against spending certain transportation funds.

(1) Notwithstanding any law to the contrary, the department is empowered to

participate in the deferred payment program authorized by Congress in Public Law 94-30.

(2) Any indebtedness incurred by the department under this section shall be paid from state transportation funds as appropriated.

(3) (a) As used in this Subsection (3):

(i) "Apportioned" means divided or assigned among the states based on a prescribed formula established in 23 U.S.C.

(ii) "Authorization act" means an act of Congress enacted after July 1, 2009 that authorizes transportation programs from the Highway Trust Fund established in 26 U.S.C. Sec. 9503.

(b) The state, including any agency, department, or division of the state, may not spend project-specific funds that are allocated through an authorization act for a transportation-related project that is eligible for funds apportioned to the state in support of the statewide transportation improvement program unless the specified project is included on the statewide transportation improvement program.

Amended by Chapter 332, 2009 General Session

72-2-113. Rulemaking for cost limitations on contracts -- Auditing for compliance -- Federal accounting and audit standards.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for determining the allowability of costs included in contracts entered into by the department for engineering and design services. The rules shall comply with the provisions of 23 U.S.C. Section 112.

(2) The department may require a provider of engineering or design services to submit annual audits or to submit to audits to determine compliance with the rules made under Subsection (1). The audits may not be duplicative of federal audits under the Federal Acquisition Regulations System, 48 C.F.R. Part 31.

(3) All engineering and design contracts and subcontracts entered into by the department shall be accounted for and audited in compliance with the Federal Acquisition Regulations System, 48 C.F.R. Part 31.

Amended by Chapter 382, 2008 General Session

72-2-114. Transfer of money -- Debt service.

(1) When there are insufficient appropriations or money available from other legal sources to pay interest on any bond anticipation notes issued under the authority of Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization, the Division of Finance shall inform the department of the amount necessary to pay that interest.

(2) After receiving notice under Subsection (1), the department shall transfer money from any available source other than the Transportation Fund to the Division of Finance for deposit into the Debt Service Fund to pay interest on bond anticipation notes issued under the authority of Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization.

Renumbered and Amended by Chapter 270, 1998 General Session

72-2-115. Transportation Fund balance -- Income -- Allocation.

All interest and earnings and other income derived from the Transportation Fund balance shall be credited to the Transportation Fund, including the collector road and B and C road accounts in proportion to the various fund account balances on an average monthly balance basis.

Renumbered and Amended by Chapter 270, 1998 General Session

72-2-116. Gifts, bequests, and donations part of Transportation Fund -- Expenditure.

(1) Gifts, bequests, and donations by individuals, corporations, or societies to the state for road building purposes shall become part of the Transportation Fund, and shall be expended for state highway purposes.

(2) Gifts, bequests, or donations made to any county shall be expended under the direction of the county legislative body.

Renumbered and Amended by Chapter 270, 1998 General Session

72-2-117. Marda Dillree Corridor Preservation Fund -- Distribution -- Repayment -- Rulemaking.

(1) There is created the Marda Dillree Corridor Preservation Fund within the Transportation Fund.

(2) The fund shall be funded from the following sources:

- (a) motor vehicle rental tax imposed under Section 59-12-1201;
- (b) appropriations made to the fund by the Legislature;
- (c) contributions from other public and private sources for deposit into the fund;
- (d) interest earnings on cash balances;
- (e) all money collected for repayments and interest on fund money;
- (f) all money collected from rents and sales of real property acquired with fund money; and
- (g) proceeds from general obligation bonds, revenue bonds, or other obligations as authorized by Title 63B, Bonds.

(3) (a) The commission shall authorize the expenditure of fund money to allow the department to acquire real property or any interests in real property for state, county, and municipal transportation corridors subject to:

- (i) money available in the fund;
- (ii) rules made under Subsection (6); and
- (iii) Subsection (8).

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(4) Administrative costs for transportation corridor preservation shall be paid from the fund.

(5) The department:

- (a) may apply to the commission under this section for money from the Marda

Dillree Corridor Preservation Fund for a specified transportation corridor project, including for county and municipal projects; and

(b) shall repay the fund money authorized for the project to the fund as required under Subsection (6).

(6) The commission shall:

(a) administer the Marda Dillree Corridor Preservation Fund to:

(i) preserve transportation corridors;

(ii) promote long-term statewide transportation planning;

(iii) save on acquisition costs; and

(iv) promote the best interests of the state in a manner which minimizes impact on prime agricultural land;

(b) prioritize fund money based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project; and

(v) the cost-effectiveness of the preservation projects;

(c) designate high priority corridor preservation projects in cooperation with a metropolitan planning organization;

(d) administer the program for the purposes provided in this section;

(e) prioritize fund money in accordance with this section; and

(f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(i) the procedures for the awarding of fund money;

(ii) the procedures for the department to apply for transportation corridor preservation money for projects; and

(iii) repayment conditions of the money to the fund from the specified project funds.

(7) (a) The proceeds from any bonds or other obligations secured by revenues of the Marda Dillree Corridor Preservation Fund shall be used for:

(i) the acquisition of real property in hardship cases; and

(ii) any of the purposes authorized for funds in the Marda Dillree Corridor Preservation Fund under this section.

(b) The commission shall pledge the necessary part of the revenues of the Marda Dillree Corridor Preservation Fund to the payment of principal of and interest on the bonds or other obligations.

(8) (a) The department may not apply for money under this section unless the highway authority has an access management policy or ordinance in effect that meets the requirements under Subsection (8)(b).

(b) The access management policy or ordinance shall:

(i) be for the purpose of balancing the need for reasonable access to land uses with the need to preserve the smooth flow of traffic on the highway system in terms of safety, capacity, and speed; and

(ii) include provisions:

- (A) limiting the number of conflict points at driveway locations;
- (B) separating conflict areas;
- (C) reducing the interference of through traffic;
- (D) spacing at-grade signalized intersections; and
- (E) providing for adequate on-site circulation and storage.

(c) The department shall develop a model access management policy or ordinance that meets the requirements of this Subsection (8) for the benefit of a county or municipality under this section.

(9) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing a corridor preservation advisory council.

(b) The corridor preservation advisory council shall:

- (i) assist with and help coordinate the corridor preservation efforts of the department and local governments;
- (ii) provide recommendations and priorities concerning corridor preservation and the use of fund money to the department and to the commission; and
- (iii) include members designated by each metropolitan planning organization in the state to represent local governments that are involved with corridor preservation through official maps and planning.

Amended by Chapter 121, 2012 General Session

72-2-117.5. Definitions -- Local Transportation Corridor Preservation Fund -- Disposition of fund money.

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all money collected from rents and sales of real property acquired with fund money;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(f) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(a) to be deposited into the fund; and

(g) sales and use tax revenues deposited into the fund in accordance with Section 59-12-2218.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall provide the department with sufficient data for the department to allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(g) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

(d) (i) The department shall annually allocate the interest earned on fund money to each county based on the proportionate amount of interest earned on each county's allocation of funds under Subsection (4)(c) on an average monthly balance basis.

(ii) The initial annual allocation of fund interest shall include all interest earned on fund money since the creation of the fund.

(e) The money allocated under Subsection (4)(c):

(i) shall be used for the purposes provided in this section for each county, city, or town;

(ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated under Subsections (4)(c) and (d); and

(iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) The department shall authorize the expenditure of fund money to allow a highway authority to acquire real property or any interests in real property for state, county, and municipal highway corridors subject to:

(i) money available in the fund to each county under Subsections (4)(c) and (d); and

(ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated under Subsections (4)(c) and (d) may be used by a county highway authority for countywide transportation planning if:

(i) the county's planning focus area is outside the boundaries of a metropolitan

planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated under Subsections (4)(c) and (d) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund, a local highway authority shall:

(A) apply to the department as required under this section for money from the fund created in this section for a specified transportation corridor project; and

(B) repay the fund money authorized for the project to the fund.

(iii) A county, city, or town that elects to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to preserve highway corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve a highway corridor that is right-of-way:

(A) in a county of the first or second class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5; or

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(B) in a county of the third, fourth, fifth, or sixth class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5; or

(V) a minor collector road as defined in Section 72-4-102.5.

(iii) The Local Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) (i) The department shall develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the Local Transportation Corridor Preservation Fund as provided under this section to promote the most efficient and effective use of fund money including priority use on designated high priority corridor preservation projects.

(ii) The department shall develop a model transportation corridor property acquisition policy or ordinance that meets federal requirements for the benefit of a highway authority to acquire real property or any interests in real property under this section.

(c) The department shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

(i) made by a highway authority;

(ii) endorsed by the council of governments; and

(iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(vii) whether the transportation corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of highway corridor preservation projects within the

county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not apply for money under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets federal requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the acquisition of real property or any interests in real property under this section.

(11) (a) The department shall, in expending or authorizing the expenditure of fund money, ensure to the extent possible that the fund money allocated to a city or town in accordance with Subsection (4) is expended:

(i) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

(ii) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

(A) secured by money allocated to the city or town; and

(B) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

(iii) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

(iv) for another purpose allowed by this section within the city or town to which the fund money is allocated.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the department may make rules to implement the requirements of Subsection (11)(a).

Amended by Chapter 35, 2013 General Session

72-2-118. Centennial Highway Fund.

(1) There is created a capital projects fund entitled the Centennial Highway Fund within the Transportation Investment Fund of 2005 created by Section 72-2-124.

(2) The account consists of money generated from the following revenue sources:

(a) any voluntary contributions received for the construction, reconstruction, or renovation of state or federal highways; and

(b) appropriations made to the fund by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money, as prioritized by the Transportation Commission, only to pay the costs of construction, reconstruction, or renovation to state and federal highways.

(5) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the account as determined by the Executive Appropriations Committee under Subsection (6)(d), the Division of Finance shall transfer any existing balance in the account into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(6) (a) The Division of Finance shall monitor the highway general obligation bonds that are being paid from revenues deposited in the fund.

(b) The department shall monitor the highway construction, reconstruction, or renovation projects that are being paid from revenues deposited in the fund.

(c) Upon request by the Executive Appropriations Committee of the Legislature:

(i) the Division of Finance shall report to the committee the status of all highway general obligation bonds that are being paid from revenues deposited in the fund; and

(ii) the department shall report to the committee the status of all highway construction, reconstruction, or renovation projects that are being paid from revenues deposited in the fund.

(d) The Executive Appropriations Committee of the Legislature shall notify the State Tax Commission, the department, and the Division of Finance when:

(i) all highway general obligation bonds that are intended to be paid from revenues deposited in the fund have been paid off; and

(ii) all highway projects that are intended to be paid from revenues deposited in the account have been completed.

Amended by Chapter 400, 2013 General Session

72-2-120. Tollway Special Revenue Fund -- Revenue.

(1) There is created a special revenue fund within the Transportation Fund known as the "Tollway Special Revenue Fund."

(2) The fund shall be funded from the following sources:

- (a) tolls collected by the department under Section 72-6-118;
 - (b) funds received by the department through a tollway development agreement under Section 72-6-203;
 - (c) appropriations made to the fund by the Legislature;
 - (d) contributions from other public and private sources for deposit into the fund;
 - (e) interest earnings on cash balances; and
 - (f) money collected for repayments and interest on fund money.
- (3) The Division of Finance shall create a subaccount for each tollway as defined in Section 72-6-118.
- (4) The commission may authorize the money deposited into the fund to be spent by the department to establish and operate tollways and related facilities, including design, construction, reconstruction, operation, maintenance, enforcement, impacts from tollways, and the acquisition of right-of-way.

Amended by Chapter 303, 2011 General Session

72-2-121. County of the First Class State Highway Projects Fund.

- (1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class State Highway Projects Fund."
- (2) The fund consists of money generated from the following revenue sources:
- (a) any voluntary contributions received for new construction, major renovations, and improvements to state highways within a county of the first class;
 - (b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;
 - (c) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(b) to be deposited in or transferred to the fund; and
 - (d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.
- (3) (a) The fund shall earn interest.
- (b) All interest earned on fund money shall be deposited into the fund.
- (4) The executive director shall use the fund money only:
- (a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102 and 63B-18-402;
 - (b) for right-of-way acquisition, new construction, major renovations, and improvements to state highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects;
 - (c) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);
 - (d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);
 - (e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and

bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a); and

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

Amended by Chapter 389, 2013 General Session

72-2-121.1. Highway Projects Within Counties Fund -- Accounting for revenues -- Interest -- Expenditure of revenues.

(1) There is created a special revenue fund within the Transportation Fund known as the "Highway Projects Within Counties Fund."

(2) The Highway Projects Within Counties Fund shall be funded by revenues generated by a tax imposed by a county under Section 59-12-2216, if those revenues are allocated:

(a) for a purpose described in Subsection 59-12-2216(2)(c); and

(b) in accordance with Section 59-12-2216.

(3) The department shall make a separate accounting for:

(a) the revenues described in Subsection (2); and

(b) each county for which revenues are deposited into the Highway Projects Within Counties Fund.

(4) (a) The Highway Projects Within Counties Fund shall earn interest.

(b) The department shall allocate the interest earned on the Highway Projects Within Counties Fund:

(i) proportionately;

(ii) to each county's balance in the Highway Projects Within Counties Fund; and

(iii) on the basis of each county's balance in the Highway Projects Within Counties Fund.

(5) The department shall expend the revenues and interest deposited into the Highway Projects Within Counties Fund to pay:

(a) for a state highway project within the county:

- (i) described in Subsection 59-12-2216(2)(c)(i); and
- (ii) for which the requirements of Subsection 59-12-2216(6) are met;
- (b) debt service on a project described in Subsection (5)(a); or
- (c) bond issuance costs related to a project described in Subsection (5)(a).

Amended by Chapter 263, 2010 General Session

Amended by Chapter 278, 2010 General Session

72-2-121.2. Definition -- County of the Second Class State Highway Projects Fund -- Use of fund money.

(1) As used in this section, "fund" means the County of the Second Class State Highway Projects Fund created by this section.

(2) There is created within the Transportation Fund a special revenue fund known as the County of the Second Class State Highway Projects Fund.

(3) The fund shall be funded by money collected from:

(a) any voluntary contributions the department receives for new construction, major renovations, and improvements to state highways within a county of the second class; and

(b) sales and use taxes deposited into the fund in accordance with Section 59-12-2218.

(4) The department shall make a separate accounting for:

(a) the revenues described in Subsection (3); and

(b) each county of the second class or city or town within a county of the second class for which revenues are deposited into the fund.

(5) (a) The fund shall earn interest.

(b) Interest earned on fund money shall be deposited into the fund.

(6) Subject to Subsection (9), the executive director may use fund money only:

(a) for right-of-way acquisition, new construction, major renovations, and improvements to state highways within a county of the second class or a city or town within a county of the second class in an amount that does not exceed the amounts deposited for or allocated to that county of the second class or city or town within a county of the second class in accordance with this section;

(b) to pay any debt service and bond issuance costs related to a purpose described in Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to that county of the second class or city or town within a county of the second class described in Subsection (6)(a) in accordance with this section; and

(c) to pay the costs of the department to administer the fund in an amount not to exceed interest earned by the fund money.

(7) If interest remains in the fund after the executive director pays the costs of the department to administer the fund, the interest shall be:

(a) allocated to each county of the second class or city or town within a county of the second class for which revenues are deposited into the fund in proportion to the deposits made into the fund for that county of the second class or city or town within a county of the second class; and

(b) expended for the purposes described in Subsection (6).

(8) Revenues described in Subsection (3)(b) that are deposited into the fund are considered to be a local matching contribution for the purposes described in Section 72-2-123.

(9) (a) The executive director shall, in using fund money, ensure to the extent possible that the fund money deposited for or allocated to a city or town is used:

(i) for a purpose described in Subsection (6)(a) within the city or town to which the fund money is allocated;

(ii) to pay debt service and bond issuance costs described in Subsection (6)(b) if the debt service and bond issuance costs are:

(A) secured by money deposited for or allocated to the city or town; and

(B) related to a project described in Subsection (6)(a) within the city or town to which the fund money is allocated; or

(iii) for a purpose described in Subsection (6)(c).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the requirements of Subsection (9)(a).

Amended by Chapter 342, 2011 General Session

72-2-121.3. Special revenue fund -- 2010 Salt Lake County Revenue Bonds Sinking Fund.

(1) There is created a special revenue fund within the County of the First Class State Highway Projects Fund entitled "2010 Salt Lake County Revenue Bond Sinking Fund."

(2) The fund consists of:

(a) money transferred into the fund from the County of the First Class State Highway Projects Fund in accordance with Subsection 72-2-121(4)(d); and

(b) for a fiscal year beginning on or after July 1, 2013, money transferred into the fund from the Transportation Investment Fund of 2005 in accordance with Subsection 72-2-124(4)(a)(iv).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) The director of the Division of Finance may use fund money only as provided in this section.

(b) The director of the Division of Finance may not distribute any money from the fund under this section until the director has received a formal opinion from the attorney general that Salt Lake County has entered into a binding agreement with the state of Utah containing all of the terms required by Section 72-2-121.4.

(c) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, on July 1 of each year beginning July 1, 2011, the director of the Division of Finance shall transfer from the County of the First Class State Highway Projects Fund and the Transportation Investment Fund of 2005 to the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County that is necessary to pay:

(i) up to two times the debt service requirement necessary to pay debt service

on the revenue bonds issued by Salt Lake County for that fiscal year; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(d) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, the director of the Division of Finance shall, upon request from Salt Lake County, transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

(i) the debt service on the revenue bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) Any money remaining in the 2010 Salt Lake County Revenue Bond Sinking Fund at the end of the fiscal year lapses to the County of the First Class State Highway Projects Fund.

Amended by Chapter 389, 2013 General Session

72-2-121.4. 2010 interlocal agreement governing state highway projects in Salt Lake County.

(1) Under the direction of the attorney general, the state of Utah and Salt Lake County may enter into an interlocal agreement that includes, at minimum, the provisions specified in this section.

(2) The attorney general shall ensure that, in the agreement, Salt Lake County covenants to:

(a) issue revenue bonds in an amount generating proceeds of at least \$77,000,000, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements, and secured by revenues received from the state of Utah under Section 72-2-121.3;

(b) transfer at least \$68,500,000 to the Department of Transportation to be used for state highway projects in Salt Lake County as provided in the interlocal agreement; and

(c) use or transfer to a municipality to use \$8,500,000 to pay all or part of the costs of the following highway construction projects in Salt Lake County in the following amounts:

(i) \$2,000,000 to Salt Lake County for 2300 East in Salt Lake County;

(ii) \$3,500,000 to Salt Lake City for North Temple;

(iii) \$1,500,000 to Murray City for 4800 South; and

(iv) \$1,500,000 to Riverton City for 13400 South -- 4000 West to 4570 West.

(3) The attorney general shall ensure that, in the agreement, the state of Utah covenants to:

(a) use the money transferred by Salt Lake County under Subsection (2)(b) to pay all or part of the costs of the following state highway construction or reconstruction projects within Salt Lake County:

(i) 5400 South -- Bangor Highway to 4000 West;

- (ii) Bangerter Highway at SR-201;
- (iii) 12300 South at State Street;
- (iv) Bangerter Highway at 6200 South;
- (v) Bangerter Highway at 7000 South;
- (vi) Bangerter Highway at 3100 South;
- (vii) 5400 South -- 4000 West to past 4800 West;
- (viii) 9400 South and Wasatch Boulevard; and
- (ix) I-215 West Interchange -- 3500 South to 3800 South and ramp work;

(b) widen and improve US-89 between 7200 South and 9000 South with available highway funding identified by the commission; and

(c) transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

- (i) the debt service on the revenue bonds issued by Salt Lake County; and
- (ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) The costs under Subsections (2)(c) and (3)(a) may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities and all related engineering, architectural, and legal fees.

(5) In preparing the agreement required by this section, the attorney general and Salt Lake County shall:

- (a) review each existing interlocal agreement with Salt Lake County concerning Salt Lake County revenues received by the state for state highway projects within Salt Lake County; and

- (b) as necessary, modify those agreements or draft a new interlocal agreement encompassing all of the provisions necessary to reflect the state of Utah's and Salt Lake County's obligations for those revenues and projects.

(6) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) to Draper City to pay for highway improvements to 13490 South.

(7) If project savings are identified from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$3,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class State Highway Projects Fund created by Section 72-2-121 to fund the following highway projects:

- (a) \$2,000,000 to West Valley City to pay for highway improvements to SR-201 Frontage Road at Bangerter Highway and associated roads to ease traffic flow onto Bangerter Highway between SR-201 and Lake Park Boulevard; and

- (b) \$1,000,000 to West Valley City for improvements to SR-201 Frontage Road at 7200 West.

(8) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b)

and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,100,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class State Highway Projects Fund created by Section 72-2-121 to West Jordan City for highway improvements on 4000 West from 7800 South to Old Bingham Highway.

(9) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class State Highway Projects Fund created by Section 72-2-121 to Midvale City to fund the following highway projects:

(a) \$500,000 to Midvale City for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard; and

(b) \$500,000 to Midvale City for improvements to 7200 South from I-15 to 700 West.

(10) (a) (i) Before providing funds to a municipality or county under Subsections (7), (8), and (9), the Department of Transportation shall obtain from the municipality or county:

(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under Subsections (7), (8), and (9) solely for the projects described in Subsections (7), (8), and (9); and

(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.

(ii) Except as provided in Subsection (10)(b), by January 1 of each year, the municipality or county receiving funds described in Subsections (7), (8), and (9) shall submit to the Department of Transportation a statement of cash flow for the current fiscal year detailing the funds necessary to pay project costs for the projects described in Subsections (7), (8), and (9).

(iii) Except as provided in Subsection (10)(b), after receiving the statement required under Subsection (10)(a)(ii) and after July 1, the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the current fiscal year based upon the statement of cash flow submitted by the municipality or county.

(iv) Upon the financial close of each project described in Subsections (7), (8), and (9), the municipality or county receiving funds under Subsections (7), (8), and (9) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.

(b) For calendar year 2012 only:

(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (10)(a)(ii) as soon as possible; and

(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.

(c) The commission or the state treasurer may make any statement of intent relating to a reimbursement under this Subsection (10) that is necessary or desirable to comply with federal tax law.

Amended by Chapter 131, 2012 General Session

72-2-123. Rules adopting guidelines -- Partnering to finance state highway capacity improvements -- Partnering proposals.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission, in consultation with representatives of local government, shall make rules adopting guidelines for partnering with counties and municipalities for their help to finance state highway improvement projects through:

- (a) local matching dollars; or
- (b) other local participation methods.

(2) The guidelines shall encourage partnering to help finance state highway improvement projects and provide for:

(a) consideration of factors relevant to a decision to make a program adjustment including the potential to:

- (i) extend department resources to other needed projects;
- (ii) alleviate significant existing or future congestion or hazards to the traveling public; and
- (iii) address a need that is widely recognized by the public, elected officials, and transportation planners;

(b) a process for submitting, evaluating, and hearing partnering proposals; and

(c) keeping a public record of each proposal from initial submission to final disposition.

(3) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules.

Amended by Chapter 382, 2008 General Session

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

- (a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;
- (b) appropriations made to the fund by the Legislature;
- (c) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and
- (d) registration fees designated under Section 41-1a-1201.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:

- (i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the

prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class State Highway Projects Fund in accordance with Subsection 72-2-121(4)(e); and

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year 2013-14 only, to transfer up to \$13,250,000 to the County of the First Class State Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Before bonds authorized by Section 63B-18-401 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) for the next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(6) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 in the current fiscal year to the appropriate debt service or sinking fund.

Amended by Chapter 389, 2013 General Session

Amended by Chapter 400, 2013 General Session

72-2-125. Critical Highway Needs Fund.

(1) There is created a capital projects fund within the Transportation Investment Fund of 2005 known as the "Critical Highway Needs Fund."

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways; and

(b) appropriations made to the fund by the Legislature.

(3) (a) The fund shall earn interest.

(b) Interest on fund money shall be deposited into the fund.

(4) (a) The executive director shall use money deposited into the fund to pay the costs of right-of-way acquisition, maintenance, construction, reconstruction, or renovation to state and federal highways identified by the department and prioritized by the commission in accordance with this Subsection (4).

(b) (i) The department shall:

(A) establish a complete list of projects to be maintained, constructed, reconstructed, or renovated using the funding described in Subsection (4)(a) based on the following criteria:

(I) the highway construction project is a high priority project due to high growth in the surrounding area;

(II) the highway construction project addresses critical access needs that have a high impact due to commercial and energy development;

(III) the highway construction project mitigates congestion;

(IV) whether local matching funds are available for the highway construction project; and

(V) the highway construction project is a critical alternative route for priority Interstate 15 reconstruction projects; and

(B) submit the list of projects to the commission for prioritization in accordance with Subsection (4)(c).

(ii) A project that is included in the list under this Subsection (4):

(A) is not required to be currently listed in the statewide long-range plan; and

(B) is not required to be prioritized through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(c) (i) The commission shall prioritize the project list submitted by the department in accordance with Subsection (4)(b).

(ii) For projects prioritized under this Subsection (4)(c), the commission shall give priority consideration to fully funding a project that meets the criteria under Subsection (4)(b)(i)(A)(V).

(d) (i) Expenditures of bond proceeds issued in accordance with Section 63B-16-101 by the department for the construction of highway projects prioritized under this Subsection (4) may not exceed \$1,200,000,000.

(ii) Money expended from the fund for principal, interest, and issuance costs of bonds issued under Section 63B-16-101 is not considered an expenditure for purposes of the \$1,200,000,000 cap under Subsection (4)(d)(i).

(e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present:

(A) the commission's current list of projects established and prioritized in accordance with this Subsection (4); and

(B) the amount of bond proceeds that the department needs to provide funding for projects on the project list prioritized in accordance with this Subsection (4) for the next fiscal year.

(ii) The Executive Appropriations Committee of the Legislature shall review and comment on the prioritized project list and the amount of bond proceeds needed to fund the projects on the prioritized list.

(f) The Division of Finance shall, from money deposited into the fund, transfer

the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 in the current fiscal year to the appropriate debt service or sinking fund.

(5) When the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection (4), the Division of Finance shall transfer any existing balance in the fund into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(6) (a) The Division of Finance shall monitor the general obligation bonds authorized by Section 63B-16-101.

(b) The department shall monitor the highway construction or reconstruction projects that are included in the prioritized project list under Subsection (4).

(c) Upon request by the Executive Appropriations Committee of the Legislature:

(i) the Division of Finance shall report to the committee the status of all general obligation bonds issued under Section 63B-16-101; and

(ii) the department shall report to the committee the status of all highway construction or reconstruction projects that are included in the prioritized project list under Subsection (4).

(d) When the Division of Finance has reported that the general obligation bonds issued by Section 63B-16-101 have been paid off and the department has reported that projects included in the prioritized project list are complete to the Executive Appropriations Committee of the Legislature, the Division of Finance shall transfer any existing fund balance in accordance with Subsection (5).

(7) (a) Unless prioritized and approved by the Transportation Commission, the department may not delay a project prioritized under this section to a different fiscal year than programmed by the commission due to an unavoidable shortfall in revenues if:

(i) the prioritized project was funded by the Legislature in an appropriations act; or

(ii) general obligation bond proceeds have been issued for the project in the current fiscal year.

(b) For projects identified under Subsection (7)(a), the commission shall prioritize and approve any project delays for projects prioritized under this section due to an unavoidable shortfall in revenues if:

(i) the prioritized project was funded by the Legislature in an appropriations act; or

(ii) general obligation bond proceeds have been issued for the project in the current fiscal year.

Amended by Chapter 400, 2013 General Session

72-2-126. Aeronautics Restricted Account.

(1) There is created a restricted account entitled the Aeronautics Restricted Account within the Transportation Fund.

(2) The account consists of money generated from the following revenue sources:

- (a) aviation fuel tax allocated for aeronautical operations deposited into the account in accordance with Section 59-13-402;
 - (b) aircraft registration fees deposited into the account in accordance with Section 72-10-110;
 - (c) appropriations made to the account by the Legislature;
 - (d) contributions from other public and private sources for deposit into the account; and
 - (e) interest earned on account money.
- (3) The department shall allocate funds in the account to the separate accounts of individual airports as required under Section 59-13-402.
- (4) The department shall use funds in the account for:
- (a) the construction, improvement, operation, and maintenance of publicly used airports in this state;
 - (b) the payment of principal and interest on indebtedness incurred for the purposes described in Subsection (4)(a);
 - (c) operation of the division of aeronautics;
 - (d) the promotion of aeronautics in this state;
 - (e) the payment of the costs and expenses of the Department of Transportation in administering Title 59, Chapter 13, Part 4, Aviation Fuel Tax, or other law conferring upon it the duty of regulating and supervising aeronautics in this state; and
 - (f) the support of aerial search and rescue operations.
- (5) (a) Money in the account may not be used by the department for the purchase of aircraft for purposes other than those described in Subsections (4)(a) through (f).
- (b) Money in the account may not be used to provide or subsidize direct operating costs of travel for purposes other than those described in Subsections (4)(a) through (f).

Enacted by Chapter 358, 2009 General Session

72-2-127. Share the Road Bicycle Support Restricted Account.

- (1) There is created in the General Fund the Share the Road Bicycle Support Restricted Account.
- (2) The account shall be funded by:
- (a) contributions deposited into the account in accordance with Section 41-1a-422;
 - (b) appropriations to the account by the Legislature;
 - (c) private contributions; and
 - (d) donations or grants from public or private entities.
- (3) The Legislature shall appropriate funds in the account to the department.
- (4) The department may expend up to 5% of the money appropriated under Subsection (3) to administer account distributions in accordance with Subsections (5) and (6).
- (5) The department shall distribute contributions in the account to one or more charitable organizations that:
- (a) are exempt from federal income taxation under Section 501(c)(3) of the

Internal Revenue Code;

- (b) have as part of their primary mission the promotion and education of:
 - (i) safe bicycle operation;
 - (ii) safe motor vehicle operation around bicycles; and
 - (iii) healthy lifestyles; and
- (c) contribute to the start-up fee for the production and administrative costs for providing a Share the Road Bicycle Support special group license plate in accordance with Subsection 41-1a-418(2)(a).

(6) (a) An organization described in Subsection (5) may apply to the department to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the department in accordance with Subsection (5) shall expend the distribution only to:

- (i) pay the costs of reordering Share the Road Bicycle Support special group license plate decals;
- (ii) produce and distribute materials to educate:
 - (A) bicyclists and motorists about safe bicycling, sharing the road, and obeying the law in Utah; and
 - (B) the public on healthy lifestyles;
- (iii) participate in transportation planning that provides accommodations for safe bicycling;
- (iv) promote a network of safe bicycling routes throughout the state; and
- (v) provide other programs that promote bicycle safety.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures and requirements for an organization to apply to the department to receive a distribution under Subsection (5).

Enacted by Chapter 380, 2009 General Session

72-2-201. Definitions.

As used in this part:

(1) "Fund" means the Transportation Infrastructure Loan Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects, including:

- (a) capital reserves and other security for bond or debt instrument financing; or
- (b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project.

(4) "Public entity" means a state agency, county, municipality, local district, special service district, or an intergovernmental entity organized under state law.

(5) "Transportation project":

- (a) means a project to improve a state or local highway; and
- (b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing.

Amended by Chapter 396, 2008 General Session

72-2-202. Transportation Infrastructure Loan Fund -- Creation -- Use of money.

- (1) There is created a revolving loan fund entitled the Transportation Infrastructure Loan Fund.
- (2) The fund consists of money generated from the following revenue sources:
 - (a) appropriations made to the fund by the Legislature;
 - (b) federal money and grants that are deposited in the fund;
 - (c) money transferred to the fund by the commission from other money available to the department;
 - (d) state grants that are deposited in the fund;
 - (e) contributions or grants from any other private or public sources for deposit into the fund; and
 - (f) all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.
- (3)
 - (a) The fund shall earn interest.
 - (b) All interest earned on fund money shall be deposited into the fund.
- (4) Money in the fund shall be used by the department, as prioritized by the commission, only to:
 - (a) provide infrastructure loans or infrastructure assistance; and
 - (b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects, and obtaining repayments of infrastructure loans or infrastructure assistance.
- (5)
 - (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.
- (6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

Amended by Chapter 382, 2008 General Session

72-2-203. Loans and assistance -- Authority -- Rulemaking.

- (1) Money in the fund may be used by the department, as prioritized by the commission, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance.

Amended by Chapter 382, 2008 General Session

72-2-204. Loan program procedures -- Repayment.

(1) A public entity may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source to the repayment of the loan.

(2) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:

- (a) transportation project revenues, including special assessment revenues;
- (b) general funds of the public entity;
- (c) money withheld under Subsection (5); or
- (d) any other legally available revenues.

(3) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(4) Before obtaining an infrastructure loan, a county or municipality shall:

- (a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and
- (b) adopt an ordinance or resolution authorizing the infrastructure loan.

(5) (a) If a public entity fails to comply with the terms of its infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.

(b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money in the fund to pay the amounts due under the contract.

(c) The department may elect when to request the withholding of money under this Subsection (5).

(6) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.

Amended by Chapter 382, 2008 General Session

72-2-205. Loan contracts of state agencies.

(1) (a) Notwithstanding Sections 53B-21-113 and 63A-1-112, a state agency may obtain an infrastructure loan.

(b) A state agency may contract to repay an infrastructure loan from the money which is appropriated to the agency and may pledge all or any portion of the money to repay the loan.

(c) A state agency's infrastructure loan may not constitute a debt of the state or lending the credit of the state within the meaning of any constitutional or statutory limitation.

(2) The terms of an infrastructure loan contract shall bind the state and a state agency, and the state agency shall unconditionally repay the loan from the money the agency has pledged under the terms of the loan contract.

Amended by Chapter 342, 2011 General Session

72-2-206. Department authority to contract.

The department may, upon approval of the commission:

- (1) make all contracts, execute all instruments, and do all things necessary or convenient to provide financial assistance for transportation projects in accordance with this chapter; and
- (2) enter into and perform the contracts and agreements with entities concerning the planning, construction, lease, or other acquisition, installation, or financing of transportation projects.

Renumbered and Amended by Chapter 270, 1998 General Session